Listing of Claims

The following list of claims will replace all prior versions and listings of claims in the application.

1. (Currently Amended) An isolated nucleic acid encoding a latency promoter, wherein the latency promoter is operatively linked to a heterologous gene and ~~is capable of driving~~ drives expression of said heterologous gene in human cells, and wherein the latency promoter is encoded by at least 630 bp of nucleotides 4-633 of SEQ ID NO: 1 and up to 2000 bp of nucleotides 4-2,003 of SEQ ID NO: 1 of a nucleic acid sequence immediately upstream of an initiation codon of open reading frame (ORF) 73 of HVS, as set forth in SEQ ID NO:1.

2-3. (Canceled)

4. (Previously Presented) A nucleic acid according to Claim 1, wherein said latency promoter is encoded by a nucleic acid sequence of a length no greater than a length selected from the group consisting of 630 bp, 1000 bp and 1500 bp of SEQ ID NO:1.

5-6. (Canceled)

7. (Currently Amended) A recombinant DNA molecule comprising at least one insert that encodes a latency promoter that drives expression of a heterologous gene in human cells, wherein the latency promoter ~~is encoded by~~ comprises at least 630 bp ~~and up to 2000 bp~~ of a nucleic acid sequence immediately upstream of an initiation codon of open reading frame (ORF) 73 of HVS, as set forth in SEQ ID NO:1.

8.-24. (Canceled)

25. (Withdrawn) A method of treating a disorder in a subject in need of such treatment, comprising administering to the subject an isolated nucleic acid according to Claim 1 in an amount effective to treat the disorder, wherein the disorder is selected from the group consisting of cancer and degenerative diseases.

26. (Withdrawn) (Currently Amended) A pharmaceutical composition comprising the isolated nucleic acid of Claim 1 and a pharmaceutically acceptable carrier.

27. (Withdrawn) The pharmaceutical composition of Claim 26, wherein the composition is formulated for a method of administration selected from the group consisting of nasal administration, parenteral administration, and oral administration.

28. (Canceled)

29. (Currently Amended) The recombinant DNA molecule according to Claim 7, wherein said latency promoter is encoded by a nucleic acid sequence of up to a length no greater than ~~a length selected from the group consisting of~~ 630 bp~~, 1000 bp and 1500 bp~~ of SEQ ID NO: 1.

30. (Canceled)

31. (Withdrawn) A method of treating a disorder in a subject in need of such treatment, comprising administering to the subject the recombinant DNA molecule according to Claim 7 in an amount effective to treat the disorder, wherein the disorder is selected form the group consisting of cancer and degenerative diseases.

32. (Withdrawn) A pharmaceutical composition comprising the recombinant DNA molecule of Claim 7 and a pharmaceutically acceptable carrier.

33. (Withdrawn) The pharmaceutical composition of Claim 32, wherein the composition is formulated for a method of administration selected from the group consisting of nasal administration, parenteral administration, and oral administration.

34-36. (Canceled)

37. (Withdrawn) A method of treating a disorder in a subject in need of such treatment, comprising administering to the subject the gene therapy system according to Claim 9 in an amount effective to treat the disorder, wherein the disorder is selected form the group consisting of cancer and degenerative diseases.

38-46. (Canceled)

47. (Currently Amended) An isolated nucleic acid encoding a latency promoter, wherein said latency promoter is operatively linked to a heterologous gene and ~~is capable of driving~~ drives expression of said heterologous gene in human cells, and wherein said isolated nucleic acid comprises nucleotides 4-2003 of SEQ ID NO:1 and said isolated nucleic acid is located immediately upstream of the initiation codon of open reading frame (ORF) 73 of HVS as set forth in SEQ ID NO:1.